

**Internal Revenue Service
Appeals**

Release Number: 201103063
Release Date: 1/21/11
Date: 10/15/10

Uniform Issue List

501.03-00

Department of the Treasury

Address any reply to:

Employer Identification Number:

Form Number:

Person to Contact:

Contact Telephone Number:

Fax Number:

**Last Day to File a Petition with
the United States Tax Court:**

Certified Mail

Dear

This is our final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code ("Code"). It is determined that your exemption from Federal income tax under IRC section 501(c)(3) is revoked effective ****, ****..

**** received section 501(c)(3) exempt status in ****, ****. The organization's only reported source of revenue is providing a service for a fee. The organization primarily operates a debt management plan for individuals by having customers sign an agreement, pay an application and monthly fees, and receive a payment plan with a due date for payments. The organization involved another entity to handle the customer sign-ups after the sale of the debt management plan was transacted. The organization operates a debt management program for debtors by providing contracting with a back-end processor and receiving payments for the referral of customers to the contracted debt management program processing company. The 30-day letter proposing revocation was issued ****, ****, and the organization protested ****, ****. A rebuttal was issued ****, ****. The organization had indicated a lack of interest in debt management plans. The lack of interest was attributable to the ability for consumers to obtain home. The organization had not had many inquiries in recent years, and those received were concerning bankruptcies and other programs, which were not handled by the organization.

Our adverse determination was made because the organization is not organized and operated exclusively for an exempt purpose within the meaning of Code section 501(c)(3). You are not operated exclusively for charitable, educational, or other exempt purposes required in §

501(c)(3). You did not engage primarily in activities which accomplish one or more of the exempt purposes specified in § 501(c)(3). Treas. Reg. § 1.501(c)(3)-1(c)(1). More than an insubstantial part of your activities were in furtherance of a nonexempt purpose.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on Form 1120 for any years which are still open under the statute of limitations. Based on the information you furnished, it appears that returns should be filed beginning with the year ending June 30, . You should file any returns due for these years or later years with the Internal Revenue Service Center, Cincinnati, OH 45999. Processing of income tax returns will not be delayed because you have filed a petition for a declaratory judgment under Code section 7428.

You are required to file converted Forms 1120, U.S. Corporation Income Tax Return, for any years which are still open under the statute of limitations. Returns for tax year ending ****, ****, should be sent to ****. Forms 1120 for tax periods beginning on and after ****, **** should be filed with the Cincinnati Service Center, Cincinnati, OH, 45999-0012.

If you decide to contest this determination under the declaratory judgment provisions of IRC section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to -

United States Tax Court
400 Second Street, N.W.
Washington, DC 20217

We will notify the appropriate State officials of this action, as required by Code section 6104(c). You should contact your state officials if you have any questions about how this determination may affect your state responsibilities and requirements.

You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in the U.S. Tax Court. The Taxpayer Advocate can however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. See the enclosed Notice 1214, Helpful Contacts for Your "Notice of Deficiency", for Taxpayer Advocate telephone numbers and addresses.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Appeals Team Manager

Enclosure:

Notice 1214 Helpful Contacts for your "Notice of Deficiency"



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

February 13, 2008

Taxpayer Identification Number:

Form:

990

Tax Year(s) Ended:

Person to Contact/ID Number:

Rich Walk /

Contact Numbers:

Telephone:

Fax:

501.03-00

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free _____ and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Rich Walk
Revenue Agent

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Explanation of Items

Name of Taxpayer

Year/Period Ended
June 30, 20XX

ORG

LEGEND

ORG = Organization name

XX = Date

PM = PM

CC-1 = 1st CO

Please note that this is not a **FINAL REPORT**. This report is subject to review by our Mandatory Review staff, who may modify it.

ISSUE

Whether the organization should be revoked under section 501(c)(3) of the Internal Revenue Code for failure to show any activity in the furtherance of an exempt purpose.

BRIEF EXPLANATION OF FACTS

The organization is recognized as a section 501(c)(3) tax exempt organization. The definitive ruling on foundation classification was issued on 11-7-20XX as a 509(a)(2). The organization was recognized as exempt in August of 20XX.

The purpose of ORG is to, in part, "help consumers pay their unsecured debts and bills on an accelerated and more efficient basis, to help and educate consumers with debt management and debt counseling, to increase customer awareness about the benefits of reducing debts and becoming debt free."

PM is the Program Manager of the EO, and its only counselor. He is currently employed by CO-1. PM states that his responsibilities are to counsel clients to resolve their financial and debt issues. He answers questions and provides budgeting tools to be used by the clients. He provides information to the clients such as links to the National Credit Bureaus and the FTC, and links to financially related books. He collects information and assesses the client's needs and abilities to become debt free.

The organization has had only one paying client since the operation began. PM states that he still takes calls from prospective customers, but they mostly want to know about bankruptcy, and loans. He is not involved in these issues.

LAW**IRC 501(c)(3)-1(c)(1)**

(c) *Operational test*—(1) *Primary activities*. An organization will be regarded as *operated exclusively* for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer	Year/Period Ended	
ORG	June 30, 20XX	

IRC 501(c)(3)-1(e)(1)

e) *Organizations carrying on trade or business*—(1) *In general.* An organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513.

IRC 501(q)

(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

(A) The organization—

- (i) provides credit counseling services tailored to the specific needs and circumstances of consumers,
- (ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,
- (iii) provides services for the purpose of improving a consumer's credit record, credit history, or credit rating only to the extent that such services are incidental to providing credit counseling services, and
- (iv) does not charge any separately stated fee for services for the purpose of improving any consumer's credit record, credit history, or credit rating.

TAXPAYER'S POSITION

In a letter to Revenue Agent dated July 9, 20XX, PM made the following statements:

"Our focus has always been on educating and providing help to our clients and to prospective participants into our Debt Management Program."

"We feel that educating our clients and any consumers that inquire about our services, is the starting point and most important focus of our process. We offer services to participants where there is a need and we can help."

"I understand that we have not been receiving many requests for help, as evidenced by our revenue, but our focus is to help people, not solicit consumers for signing up with our DMP."

GOVERNMENT'S POSITION

Based on the facts of the examination, the organization does not satisfy the requirements of section 501(c)(3) of the Internal Revenue Code. The organization does not engage primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). The main

Explanation of Items

Name of Taxpayer

Year/Period Ended
June 30, 20XX

ORG

issue of this organization is that it has little or no activity. As such, there is no education offered. The organization has been in operation approximately 5 years and there has been no furtherance of an exempt activity. The organizations appeal. taxpayers letter dated April 19, 20XX, stated that they had counseled approximately 226 potential clients and approximately 72 clients were processed and accounts were set up for a Debt Management Plan. The EO has indicated in its appeal letter that there has been a lack of interest in Debt Management Plans attributable to the ability for consumers to obtain home loans and roll their unsecured debt into their mortgages. This has adversely effected the number of "New Clients" and has resulted in very low numbers in the last 3 years. However, agent has verified during the audit year that the EO had no activities that demonstrated that it meet the requirements of IRS 501(c)(3). When asked about the activity of future years, the President stated during the interview that he did not have many inquiries, and those he had were concerning bankruptcies and other programs which he did not handle.

CONCLUSION

Based on the foregoing reasons, the organization does not qualify for exemption under section 510(c)(3) of the Internal Revenue Code and its tax exempt status should be revoked. Taxpayer was offered a closing conference on August 9, 20XX.